Position 5

USDA-FmHA
Form FmHA 1942-47
(Rev. 3-89)

FORM APPROVED
OMB NO. 0575-0015

LOAN RESOLUTION *1990-1*
(Public Bodies)

A RESOLUTION OF THE Common Council

OF THE City of Elgin, Oregon

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

Sewer Collection and Treatment

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the City of Elgin, Oregon
(Public Body)

(herein after called association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

$300,000.00

pursuant to the provisions of Resolution 1-89 and Affirmative results of Election 03-28-89

WHEREAS, the association intends to obtain assistance from the Farmers Home Administration, United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and to purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the association:

NOW THEREFORE, in consideration of the premises the association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds and containing such items and in such forms are required by STATE statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form FmHA 400-4, "Assurance Agreement"; and Form FmHA 400-1, "Equal Opportunity Agreement", including an "Equal Opportunity Clause", which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of $10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covevant or agreement contained herein or in the instrument incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the association (payable from the source of funds pledged to pay the bonds or any other legally permissible source) incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this Resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, not permit others to do so, without the prior written consent of the Government.
7. Not to borrow any money from any source, enter into any contract or agreement, or incur any other liabilities in connection with making enlargements, improvements or extensions to, or for any other purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue can not be used to pay any expenses which are not directly incurred by the facility financed by FmHA. No free service or use of the facility will be permitted.

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0575-0015), Washington, D.C.20503.

11. To acquire and maintain such insurance coverage including fidelity bonds as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof in such a manner as may be required by the Government, to provide the Government without its request, a copy of each such audit, and to make and forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
14. In cases where the Government requires that a reserve account be established and maintained, when necessary, disbursements from the reserve account may be used for payments due on the bond if sufficient funds are not available in the general or debt service accounts. With the prior written approval of the Government, funds may be withdrawn for:
    (a) Paying the cost of repairing or replacing any damage to the facility which may have been caused by catastrophe.
    (b) Repairing or replacing short-lived assets.
    (c) Making extensions or improvements to the facility.

    Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain FmHA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the association or public body.
16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. In the case of a grant in the sum not to exceed $ N/A, the association hereby accepts the grant under the terms as offered by the Government and that the _____ and _____ of the association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant and the association hereby resolves to operate the facility under the terms as offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling as between the association and the Government or assignee.

The vote was: Yeas 5 Nays ø Absent 1.

IN WITNESS WHEREOF, the Common Council of the City of Elgin, Oregon has duly adopted this Resolution and caused to be executed by the officers below in duplicate on this 13th day of March, 1990.

(SEAL)

By _____

Title Mayor

Attest:

_____

Title Recorder/Administrator

* U.S. GPO: 1989-617-014/80187

CERTIFICATION

I, the undersigned, as Recorder/Administrator of the City of Elgin, Oregon hereby certify that the Common Council of such Association is composed of 7 members, of whom _____, constituting a quorum, were present at a meeting thereof duly called and held on the 13th day of March, 1990; that the foregoing resolution was adopted at such meeting by the vote shown above; and that said resolution has not been rescinded or amended in any way.

Dated, this _____ day of _____, 19____.

_____